IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 18540 of 2007(F)

EP.685/2004 of I ADDL.SUB COURT, KOZHIKODE

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PETITIONER:

K.UNNIKANNAN, S/O.A.KARUNAKARAN NAIR,
RESIDING AT NIMESH VIHAR, P.O.CHALAPPURAM,
CALICUT.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENTS:

ARJUN AMARAVATHY CHIT FUND PRIVATE LTD.,
NO.12, DESIKAR STREET, VADAPALANI, CHENNAI-26,
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER
P.VENU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

WP(C).No. 18540 OF 2007 F

Dated this the 20th June, 2007.

JUDGMENT

This writ petition is filed challenging the order of the Subordinate Judge's Court, Kozhikode in E.P.685/04 in ARC 491/2003 of Chits and Arbitration Court, Chennai. The judgment debtor raised a question of the jurisdiction and maintainability of the decree and it was negatived by the Subordinate Judge's Court and he has filed this writ petition. The attention of this Court is drawn to the decision reported in **Krishnamoorthy v. Khaleel Rahman** {1996 (2) KLT 788} wherein this Court held that in order to make the decree executable it must come within the ambit of a decree and since the Chit Funds Act 1982 is not made applicable to the State of Kerala the deeming provision of the said Act would not make the order passed by the Registrar or the concerned authority under the said Act a decree and therefore, it is unexecutable in the State of Kerala. Unfortunately this decision has not been brought to the notice of the court below and as the other side has not entered appearance, it is only just and proper that the matter is remitted back to the Subordinate Judge's Court for disposal in accordance with law, especially in the light of the decision referred to above. Both parties

shall be heard on all questions before proceeding further in the matter. The petitioner is also given power to amend or file counter in the matter. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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